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FISCAL IMPACT STATEMENT

LS 6693

BILL NUMBER: HB 1441

NOTE PREPARED: Dec 22, 2010

BILL AMENDED:

SUBJECT: Assignability of Historic Preservation Tax Credit.

FIRST AUTHOR: Rep. Dvorak

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that the Historic Rehabilitation Income Tax Credit may be assigned. It provides that the credit may be recaptured from the person who receives the certification or from an assignee to whom the property is transferred. It repeals and replaces the current definition of "taxpayer" for purposes of the Historic Rehabilitation Credit. It provides that the transfer of the property as a condominium does not cause the credit to be recaptured. (Current law provides that the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation.)

The bill also provides that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low-income housing credit for the historic property.

Effective Date: Upon passage; July 1, 2011.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in the tax credit. DOR's current level of resources should be sufficient to implement these changes.

Division of Historic Preservation and Archaeology (DHPA): The bill makes several changes to the Historic Rehabilitation Income Tax Credit. As a result, credit application forms will need to be revised, which may result in increased administrative costs.

Explanation of State Revenues: *Summary* - The bill allows a taxpayer who is entitled to claim the Historic Rehabilitation Tax Credit to assign any portion of the credit to another taxpayer. The bill also requires the credit assignor to provide written notification of the assignment to the DOR and the DHPA. Making the

credit assignable likely will result in more timely use of credits as taxpayers having insufficient tax liabilities to exhaust credits assign them to other taxpayers who do have sufficient tax liabilities to exhaust the assigned credits. This means that the revenue loss from existing unclaimed credits and credits certified in the future would be realized sooner than otherwise. Also, the long-run revenue loss from these credits could be higher because credit assignees are better able than credit assignors to exhaust credits within the 15-year carry forward period.

The bill also provides that the credit may be recaptured from the person who receives the certification or from an assignee to whom the property is transferred, and that the transfer of the property as a condominium will not cause the credit to be recaptured. Current statute provides the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation. It also includes that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low-income housing credit for the historic property.

Background Information on the Historic Rehabilitation Tax Credit - Current statute provides for a nonrefundable AGI Tax credit for individual and corporate taxpayers equal to 20% of the historic preservation or rehabilitation expenditures made by the taxpayer. The expenditures must exceed \$10,000 and must be certified by the Department of Natural Resources (DNR). The tax credit is nonrefundable, but excess credits may be carried forward for 15 years. The tax credit may not be carried back.

Current statute prohibits the aggregate amount of credits certified to taxpayers by the DNR during a fiscal year from exceeding \$450,000. From FY 1995 to FY 2011, the DNR certified about \$8.1 M in credits. In addition, the DNR has already certified tax credits up to the annual aggregate credit limit (\$450,000) for each year through FY 2022. This translates into approximately \$5 M in additional tax credits to be claimed against future tax liabilities.

The ability to assign these tax credits would also include those credits that are currently being carried forward within the 15-year time limit. Therefore, the actual amount of credits claimed in the near future could substantially increase. This is due to the fact that some of the prior certified credits may not have been exhausted, but under the bill could be claimed sooner within the 15-year time limit by a credit assignee. It also could allow future credits to be used immediately by a credit assignee, versus the taxpayer to whom DNR certified the credit to the extent that the taxpayer has tax liability.

In 2006, 50 taxpayers claimed \$117,026; 57 taxpayers claimed \$217,783 in 2007; and in 2008, 48 taxpayers claimed \$153,611 in Historic Rehabilitation Tax Credits on Indiana individual income tax returns. Historic Rehabilitation Tax Credits were not claimed by corporate taxpayers in 2006, 2007, and 2008. Revenue from the AGI Tax on individuals and corporations is distributed to the state General Fund.

Historic Rehabilitation Tax Credit Projects: The DHPA approves all qualifying Indiana Historic Rehabilitation Tax Credit projects. The \$450,000 allocation for the current fiscal year was certified for projects that were approved in 2002. The allocation for FY 2011 was utilized by seven new projects, and one carried over from a previous year. Three of these projects exceeded \$500,000 in qualified costs and maximized the \$100,000 per project cap established by administrative rule. The tax credit, which is calculated at 20% of qualified costs, subsidized 15% of approved project costs for this group of projects. The DHPA is currently approving credits for FY 2022.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR; DHPA, DNR.

Local Agencies Affected:

Information Sources: OFMA Income Tax Databases; David Duvall, DHPA, 232-1635.

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